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FOR THE WESTERN DISTRICT OF TENNESSEE
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AFTER HOURS DEPOSITORY
Robert R. Di Tollo, Clerk
U. S. DIST COURT
W. D. OF TN, MEMPHIS

ROBERT R. DI TULLIO
TERRENCE McFADGON, on behalf of)
 themselves and all other similarly situated,)
 Plaintiff,)
 v.)
THE FRESH MARKET, INC.,)
 Defendant.)

Civil Action No.: 05-2151-DV

CONSENT MOTION TO EXTEND TIME TO RESPOND

Appearing solely for the limited purpose of this Motion and expressly reserving any and all defenses, including but not limited to those defenses enumerated in Federal Rule of Civil Procedure 12, the Defendant, The Fresh Market, Inc. ("The Fresh Market"), through counsel, moves for a thirty (30) day extension of time to answer or otherwise plead in response to the Plaintiff's Complaint. In support of this Motion, The Fresh Market shows the following:

1. The Plaintiff's Complaint was filed with this Court on February 25, 2005.
2. The Plaintiff's Complaint was served on The Fresh Market's on April 16, 2005.
3. Based on Federal Rule of Civil Procedure 12(a)(1)(A), The Fresh Market's answer or other responsive pleading to Plaintiff's Complaint is due twenty (20) days from service, on or before May 6, 2005.

MOTION GRANTEDDATE: 5-11-2005*Bernice Bouie Donald*BERNICE BOUIE DONALD
U.S. DISTRICT JUDGE

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4. Because the Complaint seeks to allege broad claims of employment discrimination by The Fresh Market against a purported nationwide class of all current and former African-American employees, The Fresh Market needs additional time to investigate the allegations of the Complaint and prepare a responsive pleading.

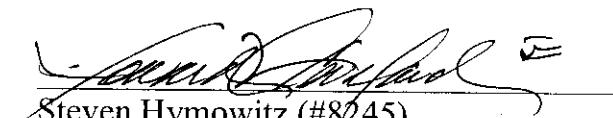
5. The requested extension is made timely under Federal Rules of Civil Procedure 6 and 12 and would neither prejudice the parties nor unduly delay this matter.

6. On May 4, 2005, Scott Humphrey, counsel for The Fresh Market consulted with counsel for the Plaintiff regarding this requested extension. Plaintiff's counsel consents to granting The Fresh Market the requested extension of thirty (30) days to answer or otherwise respond to Plaintiff's Complaint.

For the reasons shown above, The Fresh Market respectfully requests the Court enter the attached Order granting The Fresh Market an additional thirty (30) days until on or before June 6, 2005 to answer or otherwise respond to the Plaintiff's Complaint.

Respectfully submitted, this 5th day of May 2005.

Respectfully submitted,


Steven Hymowitz (#8245)
Howard L. Cleveland, IV (#17299)
KIESEWETTER WISE KAPLAN PRATHER, PLC
3725 Champion Hills Drive
Suite 3000
Memphis, TN 38125
(901) 795-6695
(901) 795.1646

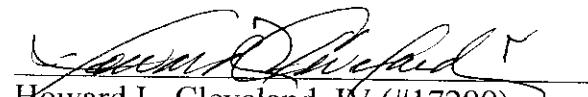
Attorneys for Defendant
The Fresh Market, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **CONSENT MOTION TO EXTEND TIME TO RESPOND** was served on all counsel by depositing same with the U.S. Mail Service, postage prepaid.

Lawrence Williamson, Esquire
Shores, Williamson & Ohaebosim, LLC
1400 Epic Center
301 North Main
Wichita, Kansas 67202

This the 5th day of May 2005.


Howard L. Cleveland, IV (#17299)
KIESEWETTER WISE KAPLAN PRATHER, PLC
3725 Champion Hills Drive
Suite 3000
Memphis, TN 38125
(901) 795-6695
(901) 795.1646

Attorneys for Defendant
The Fresh Market, Inc.

UNITED STATES DISTRICT COURT - WESTERN DISTRICT OF TENNESSEE



Notice of Distribution

This notice confirms a copy of the document docketed as number 8 in case 2:05-CV-02151 was distributed by fax, mail, or direct printing on May 19, 2005 to the parties listed.

Lawrence W Williamson
SHORES WILLIAMSON & OHAEBOSIM LLC
Epic Center 1400
301 N. Main
Wichita, KS 67202

Uzo L. Ohaebosim
SHORES WILLIAMSON & OHAEBOSIM, LLC
1400 Epic Center
301 North Main
Wichita, KS 67202

Steven Hymowitz
KIESEWETTER WISE KAPLAN & PRATHER, PLC
3725 Champion Hills Drive
Ste. 3000
Memphis, TN 38125

Howard L. Cleveland
KIESEWETTER WISE KAPLAN SCHWIMMER & PRATHER
3725 Champion Hills Dr.
Ste. 3000
Memphis, TN 38125

Honorable Bernice Donald
US DISTRICT COURT